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Supreme Court, U.S.
FILED

No.

05-341 SEP 9 - 2005

In The
Supreme Court of the United States

LARRY GREGORY
Petitioner
v.

JAMES L. GRACE, SUPERINTENDENT SCI-HUNTINGDON,
LYNNE ABRAHAM, DISTRICT ATTORNEY
OF PHILADELPHIA COUNTY,
THOMAS CORBETT, ATTORNEY GENERAL OF PENNSYLVANIA
Respondent(s)

On Petition For Writ of Certiorari
To the Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

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DATE: September 9, 2005

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Larry Gregory

QUESTIONS PRESENTED

- 1) Has Petitioner shown "actual innocence" as set forth in Schlup v. Delo, where new evidence in this case and in another case mandates the exclusion of evidence that violates the Sixth Amendment of the U.S. Constitution and leaves no direct or circumstantial evidence implicating the Petitioner?¹
- 2) Does this Court recognize a waiver of a criminal defendant's constitutional right to confront and cross-examine a key witness' police statements where the prosecution claims that there is evidence that the Petitioner arranged the witness' murder but where, subsequent to Petitioner's trial, the evidence is disproved by the recantation of the trial testimony of the only witness to Petitioner's alleged arrangement of the witness's murder and by the convictions of two others for the witness' homicide for reasons unrelated to Petitioner or Petitioner's case?²

¹This question is before this Court in a case recently granted certiorari: House v. Bell, No. 04-8990. This Court is asked to hold consideration of this Petition pending a decision in House v. Bell.

²This question has been raised in a Petition for Writ of Certiorari in Bush v. West Virginia, No. 04-1328. Should this Court grant certiorari in Bush, this Court is asked to hold consideration of this Petition pending a decision in Bush or to decide this case with Bush.

CORPORATE DISCLOSURE STATEMENT

Petitioner is not a corporation and, therefore, does not have a parent, subsidiaries or affiliates that issue shares to the public.

Neither Petitioner nor Petitioner's counsel have any financial interest in this appeal

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LIST OF PARTIES

All parties appear in the caption of the case on the cover
page.³

³The names of the Superintendent of Current SCI-Huntingdon and the current Attorney General of Pennsylvania have been substituted pursuant to F.R.A.P. 43(c).

Petitioner, Larry Gregory, respectfully requests that the Court issue a Writ of Certiorari to review the decision of the United States Court of Appeals for the Third Circuit..⁴

OPINIONS BELOW

The unreported Opinion of the United States Court of Appeals for the third Circuit, Gregory v. Kyler, Third Circuit No. 04-1636 (3d Cir., June 15, 2005), is appended as Exhibit "A". The unreported Opinion of the United States District Court for the Eastern District of Pennsylvania, Gregory v. Kyler, ED PA CIV No. 0-CV-0841 (E.D. February 19, 2004) is appended as Exhibit "B". The Report and Recommendation of Chief U.S. Magistrate Judge James R. Melinsor (January 27, 2004) is appended as Exhibit "C".

STATEMENT OF JURISDICTION

This Court has jurisdiction under 28 U.S.C. §1254(1).

⁴All emphasis herein is supplied unless otherwise indicated. Respondents are referred to as "the Commonwealth".